

PART III.

CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

Rule 3007-1

CLAIMS -- OBJECTIONS

(a) Objections to claims shall state the legal and factual basis for the objection and the amount of the debt conceded, if any.

(b) For purposes of Fed. R. Bankr. P. 3007, service of an objection to a proof of claim shall be sufficient if it is served on the claimant by mailing a copy by prepaid, first class United States mail to:

(1) the attorney for the claimant, if the attorney has filed a notice of appearance and request for notice pursuant to F.R.B.P. 2002(g); and

(2)(i) the agent or representative of the claimant who executed the proof of claim, if the name and address of the agent or representative are legibly stated in the proof of claim; or

(ii) if the name and address of the agent or representative are not legibly set forth in the proof of claim, the claimant at all addresses given for the claimant in the proof of claim. When the claimant is a domestic or foreign corporation, a partnership, or other unincorporated association, the objection shall be mailed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the claimant.

(c) If the claimant is a governmental entity or an insured depository institution, the objection shall also be served in the manner required by Fed. R. Bankr. P. 7004.

(d) All proposed orders on objections to claims shall recite in the ordering paragraph that the objection is either sustained or overruled and that the claim is either allowed or disallowed.

(e) If the objecting party is a Filing User who has consented to file and receive documents by electronic means, the objection may be served electronically upon any other Filing User who has so consented.

Notes of Advisory Committee

2004 Amendment

This amendment corrects the Bankruptcy Rules citation to that of the currently used citation. Further, this amendment, 3007(e) adds a provision permitting the Filing Users the ability to complete service of pleadings by electronic means.

2000 Amendment

As set forth in new paragraph (b)(1) of this rule, objections to claim are to be served on the attorney for the claimant if the claimant's attorney has filed a F.R.B.P. 2000(g) notice of appearance and request for notice. Service on the claimant's attorney of record is in addition to service on the claimant as previously required by former paragraphs (b)(1) and (b)(2) of the rule. Under this amendment, these former paragraphs are renumbered as subparagraphs (b)(2)(i) and (b)(2)(ii).

The additional service requirement contained in this amendment is designed to remedy problems arising when an objecting party properly serves the objection on the claimant but does not also serve the claimant's counsel of record. Claimants who employ counsel in a bankruptcy case reasonably expect that their attorneys will receive notice of actions affecting their claims. See, e.g., Fed. R.Civ.P. 5(b). Yet attorneys who have properly entered their appearances are not regularly served when parties object to their clients' claims. This failure to notice counsel has led to the unnecessary continuation of hearings and the setting aside of orders sustaining objections when counsel for the claimant, who has received no notice, fails to respond or appear.

This amendment also harmonizes service of objections to claims with service upon a debtor under Fed. R. Bankr. P. 7004(b)(9), which requires service on both the debtor and the debtor's counsel.

This amendment is effective on December 1, 2000.

1997 Amendment

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment is effective on April 15, 1997.

This rule was formerly Local Rule 2.10. The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

1995 Amendment

Fed. R. Bankr. P. 3007 requires that objections to the allowance of claims be served on "the claimant, the debtor or the debtor in possession and the trustee." Local Rule 2.10 deals with how the claimant who has filed a proof of claim is to be served with such an objection.

The amendment to subparagraph (b)(1) clarifies that objections to proofs of claim must be served on the agent or representative of the claimant who executed the proof of claim if that person's name and address are legibly stated in the proof of claim.

The amendment to subparagraph (b)(2) clarifies that, if this information is not legibly contained in the proof of claim, then the claimant must be served at all addresses given for the claimant in the proof of claim. This amendment also makes clear that, when the claimant is a corporation, partnership, or other unincorporated association, such an objection must be mailed to the attention of an officer, a managing or general agent, or other authorized agent of the claimant.

The amendment to subparagraph (c) is necessitated by Section 114 of the Bankruptcy Reform Act of 1994. This legislation amended Fed. R. Bankr. P. 7004 by providing additional certified mail service requirements for insured depository institutions.

In addition, the amendment continues the existing requirement that governmental entities also must be served in the special manners set forth in Fed. R. Bankr. P. 7004.

These amendments were effective on February 15, 1995.